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**MAILED**

**APR 15 2005**

**Technology Center 2100**

In re Application of: ZINK, et al.  
Application No. 10/092,323  
Filed: March 6, 2002  
For: SYSTEM AND METHODOLOGY  
PROVIDING OPTIMIZED DATA  
EXCHANGE WITH INDUSTRIAL  
CONTROLLER

DECISION ON PETITION  
TO MAKE SPECIAL  
(ACCELERATED  
EXAMINATION)  
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed February 18, 2005, under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

- (a) Submits a petition to make special accompanied by the fee set forth in **37 CFR 1.17(h)**;
- (b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
- (c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

- (d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
- (e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petition filed February 18, 2005 fails to adequately meet requirements (b), (c) and (e) of the criteria set forth above.

With respect to requirement (b), the phrase "if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status" was not stated in the petition.

With respect to requirement (c), while a listing of the field of search by class was provided, respective subclasses of those classes were not listed.

With respect to requirement (e), a complete detailed discussion of the (aforementioned most closely related) references has not been provided with the necessary specificity required under 37 CFR 1.111 (b) and (c). Specifically, Petitioner should ensure that the above discussion is directed to how the language of **each of the independent claims** are specifically distinguishable and patentable from the references provided in requirement (d) above. It is noted that independent claims 21, 31 and 32 differ in scope from the discussions presented in the petition with respect to independent claims 1 and 33, specifically regarding the aggregation component that is defined and installed by an entity remote from the controller.

Note, the reference erroneously identified as US 5,888,794 in the detailed discussion section of the petition, should be changed to US 5,844,794 as correctly identified in the Information Disclosure Statement filed 12/10/04.

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted by a declaration or statement providing the information as outlined above.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

A handwritten signature in black ink, appearing to read "Brian L. Johnson", is written over a horizontal line. To the right of the signature, the date "4/11/05" is handwritten.

Brian L. Johnson  
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SDL: 04/05/05